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| 10/605,902      | 11/05/2003  | Richard M. Klein     | 2220.0              | 2901             |

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EXAMINER

DEUBLE, MARK A

ART UNIT PAPER NUMBER

3651

DATE MAILED: 06/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/605,902

Applicant(s)

KLEIN ET AL.

Examiner

Mark A. Deuble

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-14 is/are allowed.
- 6) ☒ Claim(s) 1, 15, 21-24 and 29 is/are rejected.
- 7) ☒ Claim(s) 2-8, 16-20 and 25-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/30/04; 11/5/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Specification*

#### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 22 recites the limitation "the linear portion" in line 3. There is insufficient antecedent basis for this limitation in the claim. It appears that the claim (or claim 21 from which this claim depends) should be amended to depend from claim 16 which provides antecedent for the claim term.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Horton (U.S. Patent No. 5,921,379).

Horton shows a modular plastic conveyor belt comprising a series of rows of belt modules 24, each row extending laterally in width from a first side edge 30 to a second side edge 32, longitudinally in the direction of belt travel from a leading end to a trailing end, and in depth

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from a top side to a bottom side. Each row includes at least one belt module forming the row. Each belt module includes a central beam 24 arranged laterally across the width of the row so that the beam has a leading and trailing walls 82 defining a beam thickness therebetween. As can be seen in Fig. 4A, the beam has a greater thickness in the middle of the row than at the first and second side edges. A plurality of laterally spaced leading hinge members 34 extend generally longitudinally from the leading wall of the beam while of laterally spaced trailing hinge members 36 extend generally longitudinally from the trailing wall beam. The leading and trailing hinge members have holes formed therein which laterally align with each other so that a plurality of hinge pins 26 may extend through the lateral passageways formed through the interleaved leading and trailing hinge members of consecutive rows to interconnect the rows into an endless conveyor belt. Thus Horton shows all the structure required by claim 1.

5. Claims 15, 21, 23-24, and 29 rejected under 35 U.S.C. 102(b) as being anticipated by Spangler et al. (U.S. Patent No. 5,174,439).

Spangler et al. shows a modular plastic conveyor belt comprising a series of rows of belt modules 21, each row extending laterally in width from a first side edge 4 to a second side edge, longitudinally in the direction of belt travel from a leading end to a trailing end, and in depth from a top side to a bottom side. Each row includes at least one belt module forming the row. Each belt module includes a central beam 11 arranged laterally across the width of the row so that the beam has a leading and trailing walls defining a beam thickness therebetween. A plurality of laterally spaced leading narrow ended hinge members 2 extend generally longitudinally from the leading wall of the beam while of laterally spaced trailing hinge members 1 extend generally longitudinally from the trailing wall beam. The hinge members 1 form broad-

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ended hinge members having a leg with opposite sidewalls extending longitudinally from the central beam to a distal end having an indexing means 15 for preventing adjacent rows from relative lateral motion. The distal end has opposite side surfaces defining a lateral breadth therebetween that is broader than the leg and which has a centerline that is offset laterally from the centerline of the leg. Some of the broad-ended hinge members are arranged successively and separated between their broad distal ends by a narrow gap sized slightly greater than the narrow distal end of the narrow ended hinge members which are received therein. The leading and trailing hinge members have holes formed therein which laterally align with each other so that a plurality of hinge pins may extend through the lateral passageways formed through the interleaved leading and trailing hinge members of consecutive rows to interconnect the rows into an endless conveyor belt. Finally, it should be noted that the central beam is disposed generally midway between distal ends of the first and second plurality of hinge members. Thus Spangler et al. shows all the structure required by claims 15, 21, 23-24, and 29.

***Allowable Subject Matter***

6. Claims 2-8, 16-20, and 25-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 9-14 are allowed.
8. Claim 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Irwin and Lapeyre et al. both show modular conveyor belts having a central beam and a plurality of hinge members extending therefrom in a fashion similar to that of the present invention.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (703) 305-9734. The examiner can normally be reached on Monday through Friday except for alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher P Ellis can be reached on (703) 308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

md

  
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